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WORKMAN NYDEGGER/Leica
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

EXAMINER	
ALLI, IYABO	

ART UNIT	PAPER NUMBER
2877	

NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing@WNLAW.COM
WN_Status@WNLaw.com
bisraelsen@wnlaw.com

Office Action Summary	Application No.	Applicant(s)	
	10/595,185	BRAUNECKER ET AL.	
	Examiner	Art Unit	
	IYABO S. ALLI	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *30-76* is/are pending in the application.

4a) Of the above claim(s) *1-29* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *30-76* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *21 March 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *07/21/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 30-76 directed to the process of making or using an allowable product, previously withdrawn from consideration as a result of a restriction requirement, the examiner withdraws previous restriction requirement and will hereby rejoin and fully examine claims for patentability under 37 CFR 1.104.

Because all claims previously withdrawn from consideration under 37 CFR 1.142 have been rejoined, **the restriction requirement as set forth in the Office action mailed on October 30, 2008 is hereby withdrawn**. In view of the withdrawal of the restriction requirement as to the rejoined inventions, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

2. Acknowledgement is give to cancelled claims 1-29 and new claims 30-76.

Claim Objections

3. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims

are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 67 and 68 have been renumbered and now read 66 and 67.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claim 52 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Regarding claim 52, the phrase "can be" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be nega6tived by the manner in which the invention was made.

8. Claims **30-35, 38-40, 43-45, 47, 49-58, 61-63** and **71-74** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shimoyama et al.** (7,081,917). ('**Shimoyama**')

As to claim 30, Shimoyama discloses deriving positions of the reference points by surveying the reference points from at least one known initial position (Column 9, lines 47-50 and Fig. 5); automatically detecting (using wide-angle CCD camera element **88**) and deriving location information relative to at least one first and one second reference point from the quantity of reference points using the device, wherein at least one spatial segment is automatically scanned in a scanning movement by the laser radiation to detect (using CCD camera element **88**) the first and second reference points (Column 10, lines 10-20 and Figs. 2, 5 and 8); and wherein the location information for at least the detected first and second reference points is derived by measuring at least: the distance between the device and the first reference point; and the distance between the device and the second reference point and/or the angle (.gamma.) between the first and second reference points (Column 7, lines 33-39 and Figs. 1 and 5); and the angle of inclination (.alpha., .beta.) to the first or to the second reference point; or at least one distance to a third reference point (Column 10, lines 16-23); and derivation of an actual position of the device from the location information and the positions of at least the first and second reference point (Column 9, lines 47-50).

Although **Shimoyama *fails to disclose*** the device being a measuring appliance, it would have been obvious to one skilled in the art at the time of the invention to substitute the surveying apparatus **110** (refer to Column 6, lines 8-17 and Fig. 5), for the measuring appliance above, in order to achieve the predictable results of being able to maneuver and position the measuring device as desired depending on the desired

distance to the target points that the user determines is necessary for that particular measurement.

As to claim 31, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses repeating at least one of the acts of claim 31 (Column 13, lines 4-10).

As to claim 32, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses wherein in the automatic detection and derivation of location information: at least an inclination of the device is derived; an emission direction of the laser radiation (from light source **80**) is determined indirectly or directly; and/or an actual orientation of the device is derived (Column 5, lines 57-67).

As to claim 33, Shimoyama discloses all of the claimed limitations as applied to Claim 32 above **in addition Shimoyama** discloses wherein the emission direction is determined by configuring a defined trajectory (rotatably attached) (Column 5, lines 15-20 and Fig. 2).

As to claim 34, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses wherein the first and second reference points are detected on the basis of their reflectivity of the laser radiation (from light source **80**) (Column 8, lines 56-62 and Fig. 4).

As to claim 35, Shimoyama discloses all of the claimed limitations as applied to Claim 34 above, **in addition Shimoyama** discloses wherein the first and second reference points are detected on the basis of their reflectivity of the laser radiation (from

light source **80**) by using cooperative targets for establishing the reference points (Column 13, lines 11-20 and Figs. 4 and 5).

As to claim 38, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses wherein the act of automatic detection and derivation of location information includes recording of images (using image processing unit **60**) (Column 13, lines 11-16 & 25-30 and Fig. 1).

As to claim 39, Shimoyama discloses all of the claimed limitations as applied to Claim 38 above, **in addition Shimoyama** discloses wherein the first and/or second reference points are detected using image processing methods (within image processing unit **60**) (Column 9, lines 58-67 and Fig. 1).

As to claim 40, Shimoyama discloses all of the claimed limitations as applied to Claim 38 above, **in addition Shimoyama** discloses wherein the location information for at least the detected first and second reference points is derived using image processing methods (within image processing unit **60**) (Column 9, lines 58-67 and Fig. 1).

As to claim 43, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses wherein the location information and/or the alignment information for at least the detected first and second reference points are simultaneously derived (Column 9, lines 39-50).

As to claim 44, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses the act of deriving the actual

position and/or an actual orientation by means of inertial sensors (wide-angle CCD camera element 88) (Column 9, lines 39-50).

As to claim 45, Shimoyama discloses all of the claimed limitations as applied to Claim 44 above, **in addition Shimoyama** discloses wherein the act of deriving the actual position and/or actual orientation by means of inertial sensors (wide-angle CCD camera element **88**) includes interpolation of the actual position and/or of the actual orientation (Column 9, lines 39-50).

As to claim 47, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses the act of correcting deviations of a positioning and/or orientation measuring device based on inertial sensors (Column 9, lines 39-50).

As to claim 49, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses marking processing positions; defining a first actual position as a start position; defining a second actual position as an end position, wherein processing positions are automatically derived according to a specified scheme between start position and end position (Column 13, lines 60-67).

As to claim 50, Shimoyama discloses all of the claimed limitations as applied to Claim 30 above, **in addition Shimoyama** discloses verifying a processing position by performing the method of claim 30 (Column 9, lines 58-67 and Fig. 9).

As to claim 51, Shimoyama discloses all of the claimed limitations above, **in addition Shimoyama** discloses a measuring appliance (surveying apparatus **110**) configured to perform the method of claim 30 (Column 9, lines 47-50 and Fig. 1).

As to claim 52, Shimoyama discloses a radiation source for producing laser radiation; a measuring component (wide-angle CCD camera element **88**) configured to automatically detect reference points which have been made detectable, the measuring component further configured to derive location information of the reference points (Column 9, lines 39-50), the measuring component (wide-angle CCD camera element 88) comprising a receiver configured to receive the laser radiation, the receiver being configured to measure distance (Column 10, lines 10-20 and Figs. 2, 5 and 8); a control component configured to change the emission direction of the laser radiation (from light source **80**), the control component being configured so that at least one spatial segment can be automatically scanned by laser radiation (from light source **80**) (Fig. 2); and a position component configured to derive the actual position of the device from the location information of the reference points (Column 7, lines 40-52).

Although **Shimoyama *fails to disclose*** the device being a measuring appliance, it would have been obvious to one skilled in the art at the time of the invention to substitute the surveying apparatus **110** (refer to Column 6, lines 8-17 and Fig. 5), for the measuring appliance above, in order to achieve the predictable results of being able to maneuver and position the measuring device as desired depending on the desired distance to the target points that the user determines is necessary for that particular measurement.

As to claim 53, Shimoyama discloses all of the claimed limitations as applied to Claim 52 above, **in addition Shimoyama** discloses wherein the measuring component (surveying apparatus **110**) is further configured to derive the positions of the reference points (Column 6, lines 8-17 and Fig. 5).

As to claim 54, Shimoyama discloses all of the claimed limitations as applied to Claim 52 above, **in addition Shimoyama** discloses wherein the measuring component is configured to measure angles (Column 5, lines 61-67).

As to claim 55, Shimoyama discloses all of the claimed limitations as applied to Claim 54 above, **in addition Shimoyama** discloses wherein the measured angles are between two reference points, between a reference point and the horizontal, and/or between the measuring appliance and the horizontal (Column 10, lines 14-20).

As to claim 56, Shimoyama discloses all of the claimed limitations as applied to Claim 52 above **except for** a measuring appliance that is sized and configured to be hand-held.

Although **Shimoyama *fails to disclose*** the measuring apparatus being sized and configured to be hand-held, it would have been obvious to one skilled in the art at the time of the invention to utilize a hand-held device in the system above in order to be able to utilize a moveable device that is convenient and small in size for the user to carry along to different locations when another measurement is desired.

As to claim 57, Shimoyama discloses all of the claimed limitations as applied to Claim 52 above, **in addition Shimoyama** discloses wherein the measuring component

is configured to determine the emission direction of the laser radiation relative to an axis of the measuring appliance (Column 5, lines 61-67).

As to claim 58, Shimoyama discloses all of the claimed limitations as applied to Claim 52 above, **in addition Shimoyama** discloses inertial sensor (wide-angle CCD camera element 88) (Column 9, lines 39-50).

As to claim 61, Shimoyama discloses all of the claimed limitations as applied to Claim 52 above, **in addition Shimoyama** discloses wherein the measuring component includes an image-recording component (a wide-angle CCD camera element **88**) (Column 6, lines 13-17 and Fig. 1).

As to claim 62, Shimoyama discloses all of the claimed limitations as applied to Claim 61 above, **in addition Shimoyama** discloses wherein the image-recording component includes a CCD or CMOS camera (wide-angle CCD camera element **88**) (Column 6, lines 19-21 and Fig. 1).

As to claim 63, Shimoyama discloses all of the claimed limitations as applied to Claim 61 above, **in addition Shimoyama** discloses wherein the image-recording component includes a wide-angled camera (wide-angle CCD camera element **88**) (Column 6, lines 19-21 and Fig. 1).

As to claim 71, Shimoyama discloses all of the claimed limitations as applied to Claim 52 above, **in addition Shimoyama** discloses a display (touch-panel display **64**) for confirming that the measuring appliance has assumed a predetermined position (Column 5, lines 44-48 and Figs. 1 and 2).

As to claim 72, Shimoyama discloses all of the claimed limitations as applied to Claim 71 above **in addition Shimoyama** discloses a computing component configured to derive predetermined positions (Column 8, lines 13-20).

As to claim 73, Shimoyama discloses all of the claimed limitations as applied to Claim 72 above, **in addition Shimoyama** discloses wherein the computer component derives the predetermined positions by establishing a start position and an end position between which processing positions are automatically derived by the computing component according to a specified scheme (Column 13, lines 21-25 & 60-67).

And as to claim 74, Shimoyama discloses all of the claimed limitations as applied to Claim 52 above, **in addition Shimoyama** discloses the local position-determining system further comprising at least two reflectors (dichroic mirror **78** and mirror **84**) for establishing reference points which have been made detectable (Column 6, lines 40-42 & 49-50 and Fig. 2).

9. Claims **36, 37, 41, 42, 46, 48, 59, 60, 64-70** and **75** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Shimoyama et al.** (7,081,917) in view of **Benz et al.** (6,734,952). ('**Shimoyama**')

As to claim 36, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 30 above **except for** wherein the automatic detection includes distinguishing the reference points from one another by recognition of individual codes or individual physical properties coordinated with each reference point.

However, **Benz** teaches wherein the automatic detection includes distinguishing the reference points from one another by recognition of individual codes or individual physical properties (coded marker board **22**) coordinated with each reference point (Column 11, lines 27-34 & 43-46).

It would have been obvious to one skilled in the art at the time of the invention to include the distinguishing method of **Benz** in the determining method of **Shimoyama** in order to classify certain resulting data depending on the detected features characteristics from the measurement device under test.

As to claim 37, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 36 above **except for** wherein the points are distinguished on the basis of spectral selectivity.

However, **Benz** teaches wherein the points are distinguished on the basis of spectral selectivity (Column 8, lines 47-52).

It would have been obvious to one skilled in the art at the time of the invention to include the spectral selectivity of **Benz** in the determining method of **Shimoyama** in order to differentiate the source and position of the resulting data once the reflected signal is processed.

As to claim 41, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 30 above **except for** wherein the scanning movement is effected in a substantially rosette or zig zag manner.

However, **Benz** teaches wherein the scanning movement is effected in a substantially rosette or zig zag manner (Column 11, lines 32-37).

It would have been obvious to one skilled in the art at the time of the invention to include the scanning movement of **Benz** in the determining method of **Shimoyama** in order to analyze the entire area under test in a back and forth motion, allowing single a single scan process to take place where overlapping in previously measured sections will not occur.

As to claim 42, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 30 above **except for** wherein the act of automatic detection includes automatic target tracking of at least one of the reference points.

However, **Benz** teaches wherein the act of automatic detection includes automatic target tracking of at least one of the reference points (Column 8, lines 25-28).

It would have been obvious to one skilled in the art at the time of the invention to include the tracking method of **Benz** in the determining method of **Shimoyama** in order to monitor positional data within the apparatus from a stationary or moving position over a desired range.

As to claim 46, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 30 above **except for** wherein at least one of the distances is measured according to one of the following principles: phase measurement; pulse transit time measurement; pulse transit time measurement with threshold value determination; or pulse transit time measurement with HF sampling.

However, **Benz** teaches wherein at least one of the distances is measured according to one of the following principles: phase measurement; pulse transit time measurement; pulse transit time measurement with threshold value determination; or pulse transit time measurement with HF sampling (Column 8, lines 20-24 and Fig. 2).

It would have been obvious to one skilled in the art at the time of the invention to include the distance measuring principle of **Benz** in the determining method of **Shimoyama** in order to monitor triggers that have variable speeds.

As to claim 48, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 47 above **except for** wherein the deviations include drift effects.

Although **Shimoyama** in view of **Benz** ***fails to disclose*** the deviations include drift effects, it would have been obvious to one skilled in the art at the time of the invention to compensate for interference from the surrounding environment so the system is able to be calibrated accordingly.

As to claim 59, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 52 above **except for** wherein the control component includes a scanner.

However, **Benz** teaches wherein the control component includes a scanner (Column 10, lines 62-67).

It would have been obvious to one skilled in the art at the time of the invention to include the scanner of **Benz** in the determining method of **Shimoyama** in order to analyze the entire area under test in a back and forth motion, allowing single a single scan process to take place where overlapping in previously measured sections will not occur.

As to claim 60, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 59 above **except for** wherein the scanner includes at least one rotatable prism or mirror.

However, **Benz** teaches wherein the scanner includes at least one rotatable prism or mirror (Columns 3 & 5, lines 22-25 & 32-37).

It would have been obvious to one skilled in the art at the time of the invention to include the rotatable reflectors of **Benz** in the measuring appliance of **Shimoyama** in order to direct illumination to multiple areas of the scanning area under test, allowing a plurality of path lengths to predetermined reference positions.

As to claim 64, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 52 above **except for** wherein the measuring component includes a scanning detection component.

However, **Benz** teaches wherein the measuring component includes a scanning detection component **4** (Column 8, lines 8-19 and Figs. 2 and 5a).

It would have been obvious to one skilled in the art at the time of the invention to include the scanning detection component of **Benz** in the measuring appliance of **Shimoyama** in order to receive resulting signals from the measured area under test, allowing calibration within the system to take place once the output in analyzed in the processor system.

As to claim 65, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 64 above **except for** wherein the scanning detection component includes a coaxial optical system.

Although **Shimoyama** in view of **Benz *fails to disclose*** a coaxial optical system, **Benz** does teach a biaxial optical system (Column 9, lines 22-27 and Fig. 5a). It would have been obvious to one skilled in the art at the time of the invention to utilize any suitable so that overlapping within the fire of views of the receiving components will not occur unless comparison techniques between the resulting data is desired and will be controlled by the user.

As to claim 66, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 64 above **except for** wherein the scanning detection component includes an endoscope.

Although **Shimoyama** in view of **Benz *fails to disclose*** an endoscope, it would have been obvious to one skilled in the art at the time of the invention to include an endoscope in the above invention in order to probe interior views of measurement objects under test.

As to claim 67 Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 52 above **except for** a telemeter.

Although **Shimoyama** in view of **Benz** ***fails to disclose*** a telemeter, it would have been obvious to one skilled in the art at the time of the invention to include any suitable surveying component within a tracking system so that the system is operable in various environments when reference targets are utilized.

As to claim 68, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 52 above **except for** wherein the control component is configured to vary the extent of the spatial segment.

However, **Benz** teaches wherein the control component is configured to vary the extent of the spatial segment (Column 9, lines 42-52).

It would have been obvious to one skilled in the art at the time of the invention to include the control component of **Benz** in the measuring appliance of **Shimoyama** in order to gather measurement data between desired locations so that the measuring devices are able to be manipulated depending on the location of the reference areas.

As to claim 69, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 52 above **except for** wherein the control component is configured to scan at least two spatial segments independently of one another.

However, **Benz** teaches wherein the control component is configured to scan at least two spatial segments independently of one another (Column 5, lines 3-9).

It would have been obvious to one skilled in the art at the time of the invention to include the control component of **Benz** in the measuring appliance of **Shimoyama** in order to analyze the entire area under test in a particular field of view, allowing single a continuous scan process to take place to avoid overlapping measurements.

As to claim 70, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 69 above **except for** wherein the control component includes two trackers for target tracking.

However, **Benz** teaches wherein the control component includes a tracker for target tracking (Column 8, lines 20-28 and Figs. 2 and 7a).

It would have been obvious to one skilled in the art at the time of the invention to include the tracker of **Benz** in the measuring appliance of **Shimoyama** in order to monitor positional data within the apparatus from a stationary or moving position over a desired range.

Although **Shimoyama** in view of **Benz *fails to disclose*** two trackers, it would have been obvious to one skilled in the art at the time of the invention to include a desired number of tracking devices depending on the application of the system.

As to claim 75, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 74 above, **except for** wherein at least one of the reflectors includes one of the following elements: a glass sphere, in particular as full spheres or hemispheres, a retroreflective foil, or a triple prism.

However, **Benz** teaches wherein at least one of the reflectors includes one of the following elements: a glass sphere, in particular as full spheres or hemispheres, a retroreflective foil, or a triple prism (Column 5, lines 33-38).

It would have been obvious to one skilled in the art at the time of the invention to include the triple prism of **Benz** in the measuring appliance of **Shimoyama** in order to generate a measurable received signal in the field of view by a biaxial arrangement.

And as to claim 76, Shimoyama in view of **Benz** discloses all of the claimed limitations as applied to Claim 75 above **except for** wherein at least one of the reflectors is an element provided with a coding or a spectral selectability.

However, **Benz** teaches wherein at least one of the reflectors (retro reflector **2a**) is an element provided with a coding or a spectral selectability (Column 11, lines 32-39).

It would have been obvious to one skilled in the art at the time of the invention to include the reflector of **Benz** in the of **Shimoyama** in order to classify certain resulting data depending on the detected features characteristics from the measurement device under test.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. **US 2008/0116354 A1** discloses a method for determining the direction to an object to be surveyed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IYABO S. ALLI whose telephone number is (571) 270-1331. The examiner can normally be reached on M-Fr: 7:30am- 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley can be reached on 571-272-2059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

IYABO S. ALLI /Gregory J. Toatley, Jr./
Examiner Supervisory Patent Examiner, Art Unit 2877
Art Unit 2877 12 May 2009

May 7, 2009 /I. S. A./
Examiner, Art Unit 2877